

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

MICHAEL CRUTCHFIELD,	:	
	:	
Petitioner,	:	3:05-cv-17 (CAR)
	:	
vs.	:	HABEAS CORPUS
	:	28 U.S.C. § 2254
STEVE UPTON, Warden,	:	
	:	
Respondent.	:	

***ORDER ON THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE***

Before the Court is the United States Magistrate Judge's Recommendation [Doc. 17] that the above-captioned petition for federal habeas corpus relief be dismissed. Petitioner filed an Objection to the Recommendation [Doc. 18] on August 15, 2005 and a second Objection [Doc. 20] on December 5, 2005. After filing his first Objection to the Magistrate Judge's Recommendation, Petitioner also filed a Motion to Appoint Counsel [Doc. 19].

The United States Magistrate Judge recommended dismissing Petitioner's habeas petition for failure to exhaust available state remedies. More specifically, the Judge concluded that Petitioner failed to raise the claims he asserts in his federal habeas petition in a state court.

In his first Objection, Petitioner argues that the Georgia Court of Appeals recommended that he file a federal habeas petition in this case because there exist circumstances that render state process ineffective to protect his rights. Petitioner, however, does not specify what those circumstances are, and has not provided any documentation to support his allegation that the Georgia Court of Appeals made such a suggestion. In fact, nowhere in the Georgia Court of Appeals opinion affirming Petitioner's conviction does the court suggest that Petitioner should file a federal habeas

petition. Crutchfield v. State, 269 Ga. App. 69, 603 S.E.2d 462 (2004). Petitioner's second Objection states that Petitioner hopes that this Court will reconsider the matter, but contains no additional legal reason why it should do so.

Having considered all of Petitioner's arguments, including those not discussed in this Order, the briefs of the parties, the United States Magistrate Judge's Report and Recommendation, and Petitioner's Objections thereto, the Court agrees with the Recommendation. Accordingly, the Recommendation [Doc. 17] that Petitioner's petition for writ of habeas corpus be dismissed is hereby **ADOPTED** and **MADE THE ORDER OF THE COURT**. Petitioner's Motion to Appoint Counsel [Doc. 19] is therefore **DISMISSED AS MOOT**.

SO ORDERED, this 31st day of January, 2006.

S/ C. Ashley Royal
C. ASHLEY ROYAL
UNITED STATES DISTRICT JUDGE

AEG/ssh